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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-329**

13 **JOHN FRANCIS GAULE**  
14 **AKA RICHARD BROTHER GAULE**  
15 **1232 Carlsbad Pl.**  
16 **Ventura, CA 93003**

**A C C U S A T I O N**

17 **Registered Nurse License No. 383146**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about January 1, 1985, the Board of Registered Nursing (Board) issued  
25 Registered Nurse License No. 383146 to John Francis Gaule, also known as Richard Brother  
26 Gaule (Respondent). The Registered Nurse License was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on July 31, 2010, unless renewed.  
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1           7.     Section 2761 states:

2           "The board may take disciplinary action against a certified or licensed nurse or deny an  
3 application for a certificate or license for any of the following:

4           "(a)   Unprofessional conduct, which includes, but is not limited to, the following:

5           ....

6           "(f)   Conviction of a felony or of any offense substantially related to the qualifications,  
7 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
8 conclusive evidence thereof."

9           8.     Section 2764 provides, in pertinent part, that the expiration of a license shall not  
10 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
11 to render a decision imposing discipline on the license.

12                               **REGULATORY PROVISIONS**

13           9.     California Code of Regulations, title 16, section 1444 states, in pertinent part:

14           "A conviction or act shall be considered to be substantially related to the qualifications,  
15 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
16 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
17 safety, or welfare."

18                               **COST RECOVERY**

19           10.    Section 125.3 provides, in pertinent part, that the Board may request the  
20 administrative law judge to direct a licensee found to have committed a violation or violations of  
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
22 enforcement of the case.

23                               **FIRST CAUSE FOR DISCIPLINE**

24                               **(Conviction of a Substantially Related Crime)**

25           11.    Respondent is subject to disciplinary action under section 2761, subdivision (f) and  
26 490, as defined in California Code of Regulations, title 16, section 1444, in that Respondent has  
27 been convicted of a crime substantially related to the qualifications, functions or duties of a  
28 registered nurse. On or about April 9, 2007, after pleading guilty, Respondent was convicted of

1 one misdemeanor count of violating Penal Code section 243.4, subdivision (e)(1) [sexual battery]  
2 in the criminal proceeding entitled *The People of the State of California v. John Francis Gaule*  
3 (Super. Ct. Ventura County, 2007, No. 2007008945). The court sentenced Respondent to ten  
4 days in Ventura County Jail and placed him on probation for three years, with terms and  
5 conditions. The circumstances surrounding the conviction are that on or about March 2, 2007,  
6 Respondent willfully and unlawfully touched an intimate part of Jason M., against his will for the  
7 purpose of sexual arousal, sexual gratification, and sexual abuse.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Sexual Misconduct with a Patient)**

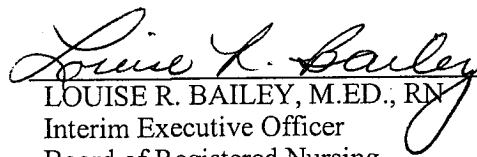
10 12. Respondent is subject to disciplinary action under section 2761, subdivision (a), for  
11 violating section 726, in that on or about March 2, 2007, while employed as a registered nurse at  
12 Community Memorial Hospital, in Ventura, CA, Respondent inappropriately touched the private  
13 part of Jason M. when bathing him. Complainant refers to, and by this reference incorporates, the  
14 allegations set forth above in paragraph 11, as though set forth fully.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board issue a decision:

- 18 1. Revoking or suspending Registered Nurse License No. 383146, issued to Respondent;  
19 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
20 enforcement of this case, pursuant to section 125.3;  
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 1/13/10

23   
24 LOUISE R. BAILEY, M.ED., RN  
25 Interim Executive Officer  
26 Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

27 LA2009603990  
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28 jz/lena (10/02/09)